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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,051	02/26/2004	Arthur M. Krieg	C1039.70083US06	8295

7590 12/22/2006  
Helen C. Lockhart, Ph.D.  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, MA 02210

EXAMINER
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OGUNBIYI, OLUWATOSIN A

ART UNIT	PAPER NUMBER
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1645

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	12/22/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



## DETAILED ACTION

### *Election/Restrictions*

This application contains claims directed to the following patentably distinct species:

1. Species of linkages: covalent, ionic, encapsulated.
2. Species of oligonucleotides: 5'-TCAACGTT-3', 5'-TGACGTT-3', 5'-TGACGTC-3'.
3. Methods of administration: oral, subcutaneous, intravenous, parenteral, transdermal.

The species are independent or distinct because (1) the linkages have distinct chemical bonds (2) the oligonucleotides have different sequences and are therefore distinct and a search for one sequence will not overlap with a search for the other sequences (3) the routes of administration involve distinct modes of administration.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed combination of species (i.e. one linkage, one oligonucleotide and one mode of administration) for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 28,31,32 and 39 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a combination of species to be examined even though the

Art Unit: 1645

requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103 (a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oluwatosin Ogunbiyi whose telephone number is 571-272-9939. The examiner can normally be reached on 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/789,051

Page 4

Art Unit: 1645



Oluwatosin Ogunbiyi

Examiner

Art Unit 1645.

*Patricia A. Duffy*  
PATRICIA A. DUFFY  
PRIMARY EXAMINER

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